

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Jody Brooks,

Plaintiff,

Case No. 13-cv-15082

Hon. Judith E. Levy

v.

Maj. Judge David R. Grand

County of Macomb and Dr.
Marcella Clark,

Defendants.

_____/

**OPINION AND ORDER ADOPTING THE MAGISTRATE'S
REPORT & RECOMMENDATION [47] GRANTING
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT [29. 32]**

Jody Brooks, previously an inmate in Macomb County Jail, brings this action against defendants Macomb County and Dr. Marcella Clark, alleging violations of her Eighth Amendment right to be free from cruel and unusual punishment. She also alleges that Macomb County violated the Americans with Disabilities Act by failing to provide her with a reasonable accommodation.

On May 28, 2015, Magistrate Judge Elizabeth A. Stafford issued a Report and Recommendation, recommending that the Court grant

defendants motions for summary judgments. (Dkt. 47.) Plaintiff objected to the Report and Recommendation in a timely manner arguing that the Magistrate Judge failed to resolve disputes of material fact in the favor of non-moving party. (Dkt. 48.)

Summary judgment is proper where “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The Court may not grant summary judgment if “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248. The Court “views the evidence, all facts, and any inferences that may be drawn from the facts in the light most favorable to the nonmoving party.” *Pure Tech Sys., Inc. v. Mt. Hawley Ins. Co.*, 95 F. App'x 132, 135 (6th Cir. 2004) (citing *Skousen v. Brighton High Sch.*, 305 F.3d 520, 526 (6th Cir.2002)).

District courts review *de novo* those portions of a report and recommendation to which a specific objection has been made. 28 U.S.C. § 636(b)(1)(C). “*De novo* review in these circumstances entails at least a review of the evidence that faced the magistrate judge; the Court may

not act solely on the basis of a report and recommendation.” *Spooner v. Jackson*, 321 F. Supp. 2d 867, 868-69 (E.D. Mich. 2004).

Objections to the report must not be overly general, such as objections that dispute the correctness of the report and recommendation but fail to specify findings believed to be in error. *Spencer v. Bouchard*, 449 F.3d 721, 725 (6th Cir. 2006); *see also Howard v. Sec’y of HHS*, 932 F.2d 505, 509 (6th Cir. 1991). “The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). “[O]bjections disput[ing] the correctness of the magistrate’s recommendation but fail[ing] to specify the findings... believed [to be] in error” are not sufficiently specific. *Id.* “[T]he failure to file specific objections to a magistrate’s report constitutes a waiver of those objections.” *Cowherd v. Million*, 380 F.3d 909, 912 (6th Cir.2004).

The full extent of plaintiff’s objection to the Report and Recommendation is as follows:

Plaintiff objects to the Report and Recommendation of the Magistrate on the Defendants’ Motions for Summary Judgment for the reason that, throughout the Report, the Magistrate resolved disputed issues of fact in favor of the moving parties. Specifically, whenever there is a difference between Plaintiff’s testimony and what does or does not

appear in the medical chart, the Magistrate finds as a fact whatever appears or does not appear in the chart. This is contrary to the fundamental rule that, in resolving a dispositive motion, all disputed issues of fact must be resolved in favor of the non-moving party

(Dkt. 48 at 2.) This kind of vague objection is exactly the kind of “[o]verly general objection[]” that fails to satisfy the requirements as set forth by the Sixth Circuit. *See Spencer*, 449 F.3d at 726. Plaintiff does not point out any specific errors of fact or law in the Magistrate Judge’s Report and Recommendation. Indeed, after reviewing the Magistrate Judge’s factual findings, given the general nature of plaintiff’s objection, the Court has no way of discerning what specific factual findings plaintiff believes were in error.

Accordingly, because plaintiff’s objections “fail to specify... the findings in error,” the Court DENIES plaintiff’s objections and ADOPTS the Report and Recommendation GRANTING defendants motions for summary judgment. Plaintiff’s complaint is DISMISSED with prejudice.

IT IS SO ORDERED.

Dated: July 20, 2015

/s/ Judith E. Levy
JUDITH E. LEVY

United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 20, 2015.

s/Felicia M. Moses
FELICIA M. MOSES
Case Manager